

Message Text

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ORIGIN L-03

INFO OCT-01 EUR-25 NEA-10 ISO-00 IO-13 CAB-09 CIAE-00

COME-00 DODE-00 EB-11 INR-10 NSAE-00 RSC-01 FAA-00

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TO AMEMBASSY ROME IMMEDIATE

INFO AMEMBASSY TEL AVIV

AMCONSUL MONTREAL

AMEMBASSY MOSCOW

AMEMBASSY LONDON

AMEMBASSY PARIS

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E.O. 11652: GDS

TAGS: ICAO, ETRN

SUBJECT: ICAO AIR SECURITY CONFERENCE: CHICAGO AMENDMENT
ENTRY INTO FORCE

REFS: (A) ROME 9544; (B) ROME 9546; (C) STATE 182884

1. DEPT GREATLY CONCERNED ABOUT DEVELOPMENTS ON THREE-TIER
ENTRY INTO FORCE FOR CHICAGO AMENDMENT PROPOSAL REPORTED
REFTELS. IF SUCH A MECHANISM WERE TO GET FINAL APPROVAL
BY ASSEMBLY, WE WOULD VIEW IT AS A RETROGRADE STEP IN
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CODIFICATION OF INTERNATIONAL RULES ON AIR SECURITY.

2. WE BELIEVE THREE TIER FORMULA MIGHT SLOW UP RATIFICATIONS OF HAGUE AND MONTREAL, AND LESSEN INTERNATIONAL STANDING OF MONTREAL COMPARED WITH HAGUE AND OF BOTH COMPARED WITH STATE ACTS OF INTERFERENCE. IT WOULD OPEN UP OPPORTUNITY FOR SOME STATES WHO WISH TO AVOID INTERNATIONAL OBLIGATIONS OF AIR SECURITY CONVENTIONS BUT NOT APPEAR NEGATIVE ABOUT SOLVING SECURITY PROBLEMS; THEY COULD RATIFY CHICAGO AMENDMENT AND NOT UNDERLYING CONVENTIONS, THEREBY ON THE ONE HAND GIVING APPEARANCE OF POSITIVE ACTION, WHILE ON THE OTHER HAND ASSURING THAT THE OBLIGATIONS COULD NEVER BE IMPOSED UPON THEM SINCE THREE-TIER GIVES THEM MECHANISM TO FRUSTRATE ENTRY INTO FORCE. FURTHER, IF ANY KIND OF ART. 87 SANCTION IS AGREED, THREE-TIER RATIFICATION COULD,

DEPENDING ON DRAFTING, RUN RISK OF LOSING A BALANCED APPLICATION OF SANCTIONS (REFTEL C) TO STATE OMISSIONS AS WELL AS COMMISSIONS. IF ENTRY INTO FORCE CAME PIECE-BY-PIECE (UNCLEAR FROM REPORTING CABLES IF THIS IS INTENDED) AS EACH UNDERLYING CONVENTION ACHIEVED 84 RATIFICATIONS, WE COULD FIND ART. 87 SANCTION APPLICABLE TO STATE ACTS OF INTERFERENCE AFTER CHICAGO AMENDMENT HAD OBTAINED THE 84, WHILE SANCTION FOR HAGUE AND MONTREAL VIOLATIONS WOULD BE STYMIED IF THESE CONVENTIONS HAD NOT OBTAINED 84.

3. WE ARE OPPOSED THEREFORE TO AN ENTRY-INTO-FORCE PROVISIO OTHER THAN SIMPLE RATIFICATION BY TWO-THIRDS CHICAGO PARTIES TO A SINGLE COMPREHENSIVE AMENDMENT. THE ABSOLUTE NUMBER REQUIRED BY SUCH A PROVISION, 84, BY ITSELF IS A MAJO OBSTACLE TO HURDLE. THE THREE-TIER COMPLEXITIES WE DO NOT BELIEVE CAN BE VIEWED AS OTHER THAN PROCEDURAL SHENANIGANS WHICH, IF APPROVED, POSE THE GREATEST POSSIBLE PRESEN- TATIONAL DIFFICULTIES THAT AN EFFECTIVE INSTRUMENT HAS BEEN CONCLUDED. WE PERCEIVE NO JUSTIFICATION FOR THREE- TIER FORMULA COMMENSURATE WITH COMPLICATIONS IT INTRODUCES. INTENDED OR NOT, FORMULA WILL INEVITABLEY PRODUCE ROOM FOR FURTHER DELAY, CONFUSION BOTH IN PRESENTATION AND IM- PLEMENTATION, AND OPPORTUNITY FOR UNDERCUTTING BALANCE WE ARE DETERMINED TO PRESERVE ON SANCTIONS QUESTION. LIMITED OFFICIAL USE

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4. WE VIEW AS HIGHLY IMPORTANT FOR ACCEPTABILITY OF A CHICAGO CONVENTION AMENDMENT PROPOSAL THAT DETERMINATION MADE IN THE ABSTRACT ON RATIFICATION QUESTION (REFTEL B PARA 4) NOT EVENTUATE IN FINAL ADOPTION OF THREE-TIER FORMULA. DELEGATION SHOULD DO EVERYTHING POSSIBLE TO ERASE INFLUENCE OF SEPTEMBER LL VOTE ON PRECISE FORM ENTRY-INTO-FORCE PROVISION TAKES WHEN AMENDMENT PROPOSAL

COMES BEFORE ASSEMBLY FOR FINAL APPROVAL. WHILE WE WOULD PREFER POSITIVE APPROACH IN THIS DIRECTION TO SUCCEED, DELEGATION SHOULD ENDEAVOR TO ASSURE THAT BLOCKING THIRD CAN BE ASSEMBLED IN ANY EVENT TO PRECLUDE ADOPTION IN THE END OF THREE-TIER FORMULA.

5. DELEGATION SHOULD CABLE PROMPTLY TEXT OF ANY THREE-TIER FORMULA WHICH EMERGES, ALONG WITH DELEGATION COMMENTS ON POINTS RAISED PARA 2 ABOVE- RUSH

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